

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA        )  
                                    )  
                                   )       CRIMINAL ACTION NO.  
v.                                )  
                                   )       2:18cr284-MHT  
                                   )  
                                   )       (WO)  
REGINALD McCLOY                )

OPINION AND ORDER

This case is before the court on a motion to continue filed by the government. For the reasons set forth below, the court finds that the trial of defendant Reginald McCoy, now set March 13, 2019, should be continued pursuant to 18 U.S.C. § 3161(h)(7) to April 8, 2019.

While the granting of a continuance is left to the sound discretion of the trial judge, see *United States v. Stitzer*, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making

public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(7)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would be likely to ... result in a miscarriage of justice," § 3161(h)(7)(B)(i), or "would unreasonably deny the defendant or the Government continuity of counsel." § 3161(h)(7)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and McCoy in a speedy trial. On February 4, 2019, this court reset the trial date from March 11 to 13, 2019. The government requests a continuance because the only prosecutor assigned to

this matter is unavailable for the March 13 trial date due to his mandatory military duties as an Officer in the U.S. Air Force Reserve on March 14 and 15. The government represents that jury selection and the trial will almost certainly take longer than one day, and therefore would conflict with the military duties. McCoy does not oppose the motion to continue. The court concludes that a continuance is warranted to ensure continuity of counsel for the government.

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Accordingly, it is ORDERED as follows:

(1) The government's motion to continue (doc. no. 43) is granted.

(2) The jury selection and trial for defendant Reginald McCoy, now set for March 13, 2019, are reset for April 8, 2019, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 5th day of February, 2019.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE